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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,273	06/22/2001	Maurice S. Brookhart	CR9608USDIV9	5192

23906 7590 03/05/2003

E I DU PONT DE NEMOURS AND COMPANY
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WILMINGTON, DE 19805

EXAMINER

RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 03/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-2

Office Action Summary

Application No.

09/887,273

Applicant(s)

BROOKHART ET AL.

Examiner

Rob Rábago

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 563-574 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 563-574 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

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DETAILED ACTION

1. The objection^s to the specification set forth in item 2~~7~~ of the Office action mailed 8/7/2002 ^{are} ~~is~~ withdrawn in view of amendment.

Information Disclosure Statement

2. The reference to Jan Tecl has been considered on the basis of applicants' statement of relevance filed 11/12/2002.

Claim Rejections - 35 USC § 112

3. Claims 563-574 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for nickel and palladium complexes comprising a diimine ligand, does not reasonably provide enablement for the full scope of catalyst formulations specified in the claims, for the reasons set forth in item 5 of the Office action mailed 8/7/2002.

Applicant's arguments filed 11/12/2002 have been fully considered but they are not persuasive. None of applicants' arguments provide a basis for a conclusion that the full scope of the claims is enabled. Applicants specifically recite Examples 430-438 in support of enablement, yet none of these examples is seen to be within the scope of the claims. Examples 433-438 fail to report the required "at least 50 branches per 1000 methylene groups", and all of the cited examples fail to report the required "at least two branches of different lengths containing less than six carbon atoms each".

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Nevertheless, even if the polymers from the cited examples contain additional unreported branching such that they are within the scope of the claims, these additional few embodiments would not provide a basis to enable the claimed process of making polymers comprising a structure which is contrary to the teachings of the art using any catalyst within the claimed scope of "a transition metal containing coordination polymerization catalyst".

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rábago whose telephone number is (703) 308-4347. The examiner can normally be reached on 9:30 am - 3:00 pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703) 308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Rob Rábago
Examiner
Art Unit 1713

RR 
February 26, 2003


DAVID W. WU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700